IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 30493 of 2006(E)

(I.A. NO. 819/2006 IN LAR NO. 53/2001 SUB COURT, CHERTHALA)

PETITIONER:

OUSEPH VARKEY, S/O.LATE MENONKATTIL,
AGED 84 YEARS, RESIDING AT PALLIPPURAM,CHERTHALA.

BY ADV. SRI.SANJEEV BHASKAR

RESPONDENTS:

1. **THE MANAGING DIRECTOR,**
   KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION,
   THIRUVANANTHAPURAM.

2. **KERALA STATE,**
   REPRESENTED BY THE SPECIAL TAHSILDAR (L.A),
   INDUSTRIAL GROWTH CENTRE, CHERTHALA.

BY ADV. SRI.V.JAYAPRADEEP, SC, KSIDC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 30493/2006 E

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT DT. 30/6/2005 IN LAA NO. 191/2005.

EXT.P2. COPY OF THE JUDGMENT DT. 24/3/2006 IN LAA NO. 710/2005.

EXT.P3. COPY OF THE ORDER NO. T4/55152/2004 DT. NIL/11/2004.

EXT.P4. COPY OF THE AFFIDAVIT AND PETITION I IA NO. 819/2006 FILED BEFORE THE SC CHERTHALA.

EXT.P5. COPY OF THE OBJECTION DT. NIL /10/06.

EXT.P6. COPY OF THE ORDER DT. 16/10/2006 IN IA NO. 819/2006 IN LAR NO. 53/2001.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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M.N. KRISHNAN, J.

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W.P.C. NO. 30493 OF 2006

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Dated this the 19th day of October, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Subordinate Judge, Cherthala in I.A.819/06 in LAR 53/01. The order is passed on 16.10.06. The brief facts necessary for the disposal of the petition are as follows. There was an award passed in favour of the claimant. The matter was taken up before the appellate Court. While disposing of the appeal the Court directed that the amount of 50% deposited by the K.S.I.D.C. Shall not be disbursed before a final decision is taken in the matter. One judgment was passed on 30.6.05(Ext.P1) and another judgment was passed on 24.3.06(Ext.P2). A perusal of the judgments would make it very clear on that point. But, it appears on 30.7.05 the claimant had withdrawn the amount which is certainly against the order of this Court. The Court below found that since it is against the order of this Court he is bound to reimburse the amount and therefore directed him to

redeposit the amount and in default directed the Collector to realise the amount.

2. Now, I am informed that one case had been disposed of on 29.3.07 and the amount awarded will be more than the amount already withdrawn. I do feel that the conduct of the claimant is far from satisfactory and he should not have withdrawn the amount from the Court but in order to avoid further precipitation and complication and as the amount ultimately awarded is more than the amount what is withdrawn by him I feel that the writ petition can be closed with certain directions.

(1) The order of the learned Subordinate Judge to redeposit the amount or in default to direct the Collector to realise the amount will stand cancelled.

(2) If the writ petitioner in this case is found to have withdrawn excess amount he is bound to reimburse it, if after the appeal it is found so.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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